

The “Full” Consent Election Agreement

The National Labor Relations Board has revised Section 102.62 of its Rules and Regulations to provide a new procedure for resolving questions concerning representation when a hearing is required to resolve disputed issues regarding the conduct of a representation election. This new procedure is the “full” consent election agreement.

How it Works

Under this procedure, parties can voluntarily enter into an agreement to have the Regional Director resolve with finality all pre-election factual and legal disputes after hearing. The parties thereby waive their rights to file a request for review of the Regional Director’s decision with the Board.

Under the procedure, all post election disputes – challenges and objections – would likewise be decided by the Regional Director with no right of appeal to the Board, as is currently the case under the consent procedures of Section 102.62(a). The Regional Director would investigate those matters either administratively or through a hearing and issue a report setting forth his/her findings, which would be final and binding.

Advantages of New Procedure

Under the new “full” consent procedures set forth in Section 102.62(c) of the Board’s Rules, a labor organization seeking to represent the employees of an employer for the purposes of collective-bargaining and the employer of those employees can voluntarily agree to have the Board conduct a secret ballot election and certify with finality the results of the election. The parties have the advantage of having a neutral expert in the area

of representation case law under the National Labor Relations Act decide the issues separating them so that a secret ballot, Board agent-conducted election can be held. The unique feature of this new procedure is that the parties can be assured of a prompt election and certification even if they dispute certain of the details necessary to conduct an election and even if post election disputes arise that must be decided before a certification can issue. The parties can have this assurance because they waive their right to review by the National Labor Relations Board of the decision of the Regional Director in both instances.

The Decisions and Directions of Election and Decisions and Orders issued by Regional Directors after pre-election hearings are overturned by the Board on review only in a very small percentage of cases. In addition, Regional Directors issue their pre-election decisions with little delay. Regional Director Decisions and Directions of Election or Decisions and Orders routinely issue in a median of 40 days or less from the filing of the representation petition. Ninety percent of those decisions issue in 80 days or less, from petition filing.

“Full” Consent Election Agreements - Summary of Advantages to the Parties

- A quicker resolution of their representation dispute with finality.
- Access to a secret ballot Board election using tested election procedures without delays.
- Ability to litigate significant issues without delays.

- Substantial savings in legal expenses for all parties since there will be no proceedings before the Board.
- No uncertainties related to delayed business decisions, including desired changes in business operations, while awaiting the final disposition of the representation issue before the Board.
- Expertise in determining questions that arise when a representation dispute is present, e. g., unit placement, unit scope, eligibility of employees, etc.
- The benefits of Board Certification.
- Regional Director Decisions are reliable and are overturned by the Board on review in only a very small percentage of cases.

The Information Officer on duty in the NLRB Regional Office located nearest to you can provide you with additional information about this new procedure.



United States Government
National Labor Relations
Board
For Toll Free Information
Call 1-866-667-NLRB

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